

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

TARA J. LOUX, M.D.,

Plaintiff,

Case No. 8:21-cv-01891-WFJ-TGW

v.

BAYCARE MEDICAL GROUP, INC.,
ST. JOSEPH'S HOSPITAL, INC.; and
ANAND NAYEE, M.D.,

Defendants.

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ORDER

THIS CAUSE came to be heard on May 8, 2023, following the Court's receipt of additional information from Defendants, BayCare Medical Group, Inc. and St. Joseph's Hospital, Inc., as mandated by the Court's Order, dated April 10, 2023. (Dkt. No. 96). The Court heard argument from counsel for the Parties regarding the issues presented by the Magistrate Judge's Order on Defendants' Claim of PSQIA Privilege (Dkt. No. 82); Plaintiff's Objection to the Magistrate Judge's Order on Defendants' Claim of PSQIA Privilege (Dkt. No. 93); and Defendants' Response in Opposition to Plaintiff's Objection to the Magistrate Judge's Order on Defendants' Claim of PSQIA Privilege (Dkt. No. 94).

During the hearing, the Court directed counsel for Plaintiff to reduce the number of physicians for whom Plaintiff is seeking discovery from 16 physicians to

10. In compliance with the Court's directive, Plaintiff has informed the Court that she has narrowed the list to the following 10 physicians:

Dr. Luis Martinez,
Dr. Grant Geisler,
Dr. John Fitzwater
Dr. Cynthia Reyes
Dr. Tuan Pham
Dr. Enrique Grisoni
Dr. Richard Hodges
Dr. Stephen Butler
Dr. Joshua Mitchell
Dr. Scott Cutler

It is, therefore, upon consideration,

ORDERED:

1. Plaintiff and Defendants are ordered to submit to the Court a Proposed Stipulated Qualified Protective Order pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). This Proposed Order shall be submitted no later than June 16, 2023.

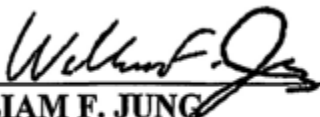
2. Defendants shall submit to the Court, for *in camera* review, paper copies of the 9 Referral Logs described in Category No. 6 of Defendants' Amended Privilege Log (Dkt. No. 71) no later than June 16, 2023. If possible, those Logs shall be culled or redacted to contain only entries pertaining to the 10 physicians identified by Plaintiff. The Court's *in camera* review of these Referral Logs shall not result in a waiver of privilege under the Patient Safety and Quality Improvement Act of 2005.

3. To the extent that the physician identified by Gill Small pursuant to paragraph 9.a of her declaration dated April 28, 2023, is one of the 10 physicians identified by Plaintiff, Defendants shall submit to the Court for *in camera* review the Code 15 Report for this physician no later than June 16, 2023.

4. The Court finds that the Quality Files described in Category No. 5 of Defendants' Amended Privilege Log (Dkt. No. 71) that pertain to the 10 physicians identified by Plaintiff are not privileged under PSQIA because they are dual-purpose records that Defendants were required to make by Florida Statutes, § 395.0193(2). To the extent that the Magistrate Judge's Order held otherwise, the Court finds it to be clearly erroneous. Defendants are required to produce the Quality Files described in Category No. 5 of Defendants' Amended Privilege Log (Dkt. No. 71) that pertain to the 10 physicians identified by Plaintiff to Plaintiff no later than June 16, 2023.

5. Plaintiff's Motion to Compel the documents identified in categories 7 and 8 of Defendants' Amended Privilege Log (Dkt. No. 40) is denied without prejudice.

DONE AND ORDERED at Tampa, Florida on May 26, 2023.



WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

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